

## Chapter 4 Boards, Commissions and Special Offices

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## **Chapter 4**

### **Boards, Commissions, and Special Offices**

#### **Article 1 Board of Parks and Recreation**

##### **SEC. 4-101 Board of Parks and Recreation Established**

A Board of Parks and Recreation is hereby reestablished and current members will continue to serve out the term for which they were appointed. The Board shall consist of seven (7) members appointed by the Town Council. Each year in the month of March, the Town Council shall meet and appoint a new member for each of the outgoing members for a term of three (3) years. The terms shall commence April 1 and end March 31. The Board shall be appointed by the members of the Town Council in the following manner:

Three (3) members for one (1) year.

Two (2) members for two (2) years.

Two (2) members for three (3) years.

One (1) member of the Town Council shall be appointed as an ex official member.

##### **SEC. 4-102 Board Member Requirement**

A member of the Board of Parks and Recreation must be a minimum of eighteen (18) years old, a legal resident of Bucksport and United States citizen.

Resident is defined for the purpose of this section as “an individual’s place of domicile.”

Domicile is defined as: “where an individual owns or rents a place of abode and eats and sleeps eight (8) months out of any calendar year.”

##### **SEC. 4-103 Organization; Minutes; Report to Council**

The Board shall elect officers, adopt its own bylaws and standard operational procedures, and shall keep minutes of all meetings. Copies of the minutes shall be distributed to the Town Council. The Board or Recreation Director shall make an annual report to the Town Council.

##### **SEC. 4-104 Officers; Election**

Officers shall be elected annually at the first meeting held after April 1<sup>st</sup> of each year.

##### **SEC. 4-105 Vacancies on Board**

A vacancy shall occur if a Board member resigns, is unable to serve, or is absent without acceptable reason for more than two (2) regular consecutive meetings. The Chairman shall notify the Town Council of the vacancy. The Town Council shall then appoint a new member for the balance of the term of the absent member.

**SEC. 4-106 Duties of the Board**

The duties of the Board shall be to:

1. Advise the Director of the Parks and Recreation Department as to the operation of recreational programs.
2. Formulate long-range plans for lands and physical facilities deemed desirable for the recreational benefit of the citizens of the Town.
3. Determine new programs needed by the Town and report these to the Director for consideration.
4. Advise the Director in the preparation of the Department budget.
5. Advise the Director and Town Manager in selecting Department personnel.

**SEC. 4-107 Meetings**

1. Regular meetings shall be held three (3) times annually.
2. Special meetings may be called from time to time by the Chairman, Recreation Director, or by at least three (3) members of the Board.
3. All meetings shall be open to the public, except for executive sessions as provided under the laws of the State of Maine.
4. Notice of meetings of the Board of Parks and Recreation shall be posted at the Bucksport Town Office and a copy of the notice provided to local representatives of the news media by the same method used to notify the Board members. The notice shall set forth the location, date, time and the nature of the meeting.

**SEC. 4-108 Funds**

All funds appropriated for the Department shall be expended as provided by the Town Charter under supervision of the Town Manager.

**SEC. 4-109 Equipment**

Equipment of any kind purchased by or donated to the Department of Parks and Recreation shall be and remain the property of the Town of Bucksport.

**SEC. 4-110 Enforcement**

Enforcement of this chapter shall be the duty of the Town Manager, who shall follow the general policy of the Town. Personnel employed for the Department of Parks and Recreation shall be subject to the general employment policies adopted by the Town Council.

**Article 2 Conservation Commission**

**SEC. 4-201 Conservation Commission Established**

A Conservation Commission for the Town of Bucksport is hereby reestablished pursuant to the provisions of 30-A M.R.S.A. Section 3261. Current members will continue to serve out the term for which they were appointed. The Commission shall consist of seven (7) members appointed by the Town Council. Each year in the month of March, the Town Council shall meet and appoint a new member for

each of the outgoing members for a term of three (3) years. The terms shall commence April 1<sup>st</sup> and end March 31<sup>st</sup>. The Commission shall be appointed in the following manner:

Three (3) members for one (1) year.

Two (2) members for two (2) years.

Two (2) members for three (3) years.

**SEC. 4-202 Organization; Minutes; Report to Council**

The Commission shall elect officers, adopt its own bylaws and standard operational procedures, and shall keep minutes of all meetings. Copies shall be distributed to the Town Council. The Commission shall make an annual report to the Town Council.

**SEC. 4-203 Officers; Election**

Officers shall be elected annually at the first meeting held after April 1<sup>st</sup> of each year.

**SEC. 4-204 Commissioners Requirements**

A member of the Commission must be a minimum of eighteen (18) years old, a legal resident of Bucksport and United States citizen.

Resident is defined for the purpose of this section as: “an individual’s place of domicile.”

Domicile is defined as: “where an individual owns and rents a place of abode and eats and sleeps eight (8) months out of any calendar year.”

**SEC. 4-205 Vacancies on Commission**

A vacancy shall occur if a commission member resigns, is unable to serve, or is absent without acceptable reason for more than two (2) regular consecutive meetings. The Chairman shall notify the Town Council of the vacancy. The Town Council shall then appoint a new member for the balance of the term of the absent member.

**SEC. 4-206**

*No language exists for this section.*

**SEC. 4-207 Duties of the Commission**

The duties of the Commission shall be to:

1. Keep an index of all open areas within the municipality including open marshlands, swamps and other wetlands, for the purpose of obtaining information relating to the proper protection, development or use of those open areas. The commission may recommend to the Municipal Officers or any municipal body or Board or public agency of the State, a program for the better protection, development or use of those areas, which may include the acquisition of conservation easements.

2. Receive gifts, as accepted by the Town Council, of personal property in the municipality's name for any of the commission's purposes and to administer any such gift for those purposes subject to the terms of the gift.
3. Acquire land or interest in land, as approved by the Town Council, in the municipality's name for any of the purposes set forth in this section.
4. Assume supervisory responsibility for the care and planting of all public shade trees in the community.
5. Review all proposals for the planting, removal, or relocation of public shade trees. The Commission shall approve proposals, meeting applicable arboricultural standards adopted by the Committee and other reasonable requirements if any
6. Determine and inventory unique natural areas throughout the community pursuant to the Town's Comprehensive Plan.
7. Recommend to the Town Council for consideration amendments to the zoning and subdivision ordinances aimed at protecting State identified critical and natural heritage areas throughout the community, if any.

**SEC. 4-208 Meetings**

1. Regular meetings will be held at least three (3) times annually.
2. Special meetings may be called from time to time by the Chairman or by at least three (3) members.
3. All meetings shall be open to the public, except for executive sessions as provided under the laws of the State of Maine.
4. Notice of meetings of the Conservation Commission shall be posted at the Bucksport Town Office and a copy of the notice provided to local representatives of the news media by the same method used to notify the commission members. The notice shall set forth the location, date, time and the nature of the meeting.

**SEC. 4-209 Funds**

All funds appropriated for the Commission shall be expended as provided by town charter under the supervision of the Town Manager.

**SEC. 4-210 Equipment**

Equipment of any kind purchased or donated to the Conservation Commission shall remain the property of the Town of Bucksport.

**SEC. 4-211 Enforcement**

Enforcement of this chapter shall be the duty of the Town Manager, who shall follow the general policy of the Town. Personnel employed for the Commission shall be subject to the general employment policies adopted by the Town Council.

## **Article 3 Harbor Master**

### **SEC. 4-301 Office of Harbor Master Established**

The office of Harbor Master is hereby created for the purpose of providing controls and regulations in accordance with the statutory provisions pertaining to Maine ports and harbors.

### **SEC. 4-302 Duties**

It shall be the duty of the Harbor Master to:

1. Have the care and regulation of the harbor and port of Bucksport.
2. Provide himself with the printed rules and regulations of the port for distribution.
3. Remove or cause to be removed any vessel, boat, or raft from any wharf obstructing anchorage; and whenever he shall deem it necessary he shall remove or cause to be removed any vessel lying in tier.
4. Promote order in the harbor, and assure the safety and convenience of the users of the harbor and of the general public.
5. Prevent the mooring of any floating craft used primarily for residence purposes except with his permission and that of the riparian owner.
6. Notify and warn the owner of any dock, pier, wharf or landing strip that has fallen into disrepair or is in a dangerous condition, and cause the condition to be abated as a nuisance if not corrected within a reasonable period specified by the Harbor Master.
7. Enforce the provisions of any ordinance and any rules and regulations lawfully promulgated thereunder, applicable to the harbor, waterfront, and watercraft.
8. Exercise the same powers and duties with respect to the Town Landing as are authorized in connection with his jurisdiction over Bucksport Harbor and waterfront and any watercraft.
9. Prepare rules and regulations pursuant to M.R.S.A. Title 38 Section 2 for the keeping open of convenient channels for the passage of vessels in Bucksport Harbor, for the establishment of boundary lines for such channels, and for the assignment of suitable portions of the harbor for anchorage, which rules after approval by the Town Council, pursuant to M.R.S.A. Title 38 Section 7, he shall enforce.
10. Remove or cause to be removed or relocated any moorings or boats placed in the Harbor without the Harbor Master's permission, and to charge a reasonable fee for such services.
11. Remove or cause to be removed any boat that occupies the town dock longer than the allowable time. Whenever a boat owner fails or refuses to move his or her boat, after being notified to do so by the Harbor master, or anyone authorized to enforce this ordinance, a fee, called a dock use fee, may be levied upon said boat owner. This dock-use fee shall be determined by the length of the boat and the time involved at the dock.



12. Appoint a deputy or deputies who under his/her direction, shall be authorized to enforce and carry out rules and regulations of this Chapter and of Appendix G “Harbor Management Ordinance” of the Bucksport Town Code.

## **Article 4 BOARD OF ASSESSMENT REVIEW**

### **SEC. 4-401 Board of Assessment Review Established**

The Bucksport Board of Assessment Review is reestablished pursuant to 30-A M.R.S.A. Section 2526 (6). Current members will continue to serve out the term for which they were appointed. The Board shall consist of three (3) members and two (2) alternates appointed by the Town Council. Each year in the month of March, the Town Council shall meet and appoint a new member and alternate for each of the outgoing members for a term of three (3) years. The terms shall commence April 1<sup>st</sup> and end March 31<sup>st</sup>. The first Board shall be appointed in the following manner:

- One (1) member for one (1) year.
- One (1) member for two (2) years.
- One (1) member for three (3) years.
- Two (2) alternates for three (3) years.

### **SEC. 4-402 Organization; Minutes; Report to Council**

The Board shall elect officers and shall keep minutes of all meetings. Copies of the minutes shall be distributed to the Town Council.

### **SEC. 4-403 Board Member Qualifications**

Members of the Board must be a minimum of eighteen (18) years old, legal residents of Bucksport and United States citizens.

Resident is defined for the purpose of this section as: “an individual’s place of domicile.”

Domicile is defined as: “where an individual owns and rents a place of abode eight (8) months out of any calendar year.”

### **SEC. 4-404 Officers Election**

Officers shall be elected annually by the members of the Board at the first meeting held after April 1<sup>st</sup>.

### **SEC. 4-405 Vacancies to the Board**

A vacancy shall occur if a Board member resigns, is unable to serve, or is absent without acceptable reason for more than two regular consecutive meetings. The Chairman shall notify the Town Council of the vacancy. The Town Council shall then appoint a new member for the balance of the term of the absent member.

### **SEC. 4-406 Duties of the Board**

The duties of the Board shall be to:

1. Hear and determine appeals according to the following provision of law:

- a. Title 36 M.R.S.A. Section 843.

**SEC. 4-407 Meetings**

1. Meetings shall be called by the Chairman upon receipt of a written request for appeal filed within sixty (60) days of the decision. The Board will render a decision in writing, within sixty (60) days of the date the application is filed unless the applicant agrees in writing to further delay.
2. The business of the Board of Assessment Review is a public proceeding and the Board shall comply with the provision of the Freedom of Access Law in Title 1 M.R.S.A. Sections 401 to 410.
3. Except as provided by statute, all of its proceedings shall be open to the public and its minutes open to public inspection.
4. Except as provided by statute, rules of evidence or rules of privilege, all of its records shall be open to public inspection. The Board shall go into executive session, pursuant to the conditions listed in 1 M.R.S.A. Section 405, for permitted deliberations only after a public, recorded vote of three fifths ( $\frac{3}{5}$ ) the members present and voting; and no official action shall be finally approved in such session.

**SEC. 4-408 Quorum Approval**

A quorum of the Board of Assessment Review is two (2) members. Where no quorum is present at a meeting, no business of the Board of Assessment Review may be conducted except for adjournment.

**SEC. 4-409 Conflict of Interest**

1. A member of the Board of Assessment Review shall not participate in the deliberation of the Board or vote upon any matter in which the member has a direct or indirect pecuniary interest.
2. In a case where a corporation, business or other economic entity is applying for an abatement, a direct or indirect pecuniary interest is deemed to arise where a member is an officer, director, partner, associate, employee or shareholder of a private corporation, business or other economic entity which the member is directly or indirectly the owner of at least a ten percent (10%) interest in the business or other economic entity making the application.
3. A member having a direct or indirect pecuniary interest in any matter before the Board shall make full disclosure of that interest before any action is taken and shall not participate in the Board's deliberation, or attempt to influence the other members, or vote on the matter. If a Board member steps down from the Board due to a conflict of interest the individual may participate as an audience member.
4. The chairman of the Board shall inquire of the Board members whether any conflicts of interest exist before each matter is presented, but failure to do so shall not, of itself, invalidate any vote.
5. When any member is challenged because of an alleged conflict of interest, that question of disqualification shall be decided by the majority vote of the other

Board members. If that member is so disqualified he or she shall not participate on the matter at issue.

**SEC. 4-410 Public Notice**

Notice of meetings of the Board of Assessment Review shall be posted at the town Office and a copy of the notice provided to local representatives of the news media by the same method used to notify the Board members. The notice shall set forth the location, date, time and the nature of the meeting.

**SEC. 4-411 Presiding Officer**

The Chairman of the Board of Assessment Review or in his/her absence another chosen by the members present, shall preside at all meetings. The Chairman shall:

1. Establish the agenda for each meeting.
2. Regulate the course of the meeting or hearing, set the time and place of adjournment and fix the time for filing of written submissions.
3. Rule upon all issues of procedure or evidence.
4. Take such other actions authorized by statute that maybe necessary for the efficient and orderly conduct of the Board of Assessment Review.

**SEC. 4-412 Conduct of Meeting**

1. The Chairman shall inquire whether the applicant has sufficient standing to present the matter to the Board.
2. The Chairman shall invite the applicant or a duly authorized representative to make an opening statement and to present evidence or testimony in support of the application.
3. Witnesses shall state for the record their name, address, business affiliation, and the nature of their interest in the proceedings.
4. Any oral or written evidence which is relevant to the appeal and not unduly repetitious may be admitted. The Board is not bound by formal rules of evidence and it may accept or exclude evidence when in the Chairman's judgment it is necessary or appropriate to bring about the production of proper information and to afford the parties a full and fair hearing.
5. The Chairman shall then invite the Board members to ask questions of the applicant, applicant's representative, and witnesses.
6. The Chairman shall then invite the assessor or assessor's representative to ask questions.
7. The Chairman shall then invite the assessor or assessor's representative to make an opening statement and to present evidence or testimony in support of the assessor's position.
8. The Chairman shall invite the Board members to ask questions of the assessor, assessor's representative or witnesses.
9. The Chairman shall invite the applicant or applicant's representative to ask questions.

10. At the end of the initial testimony by all parties, the Board members or Board attorney may direct questions to the applicant, assessor, or anyone else who has previously testified or offered evidence.
11. The Chairman may grant the applicant, assessor, or interested party an opportunity to present evidence in rebuttal to other evidence heard. Rebuttal evidence shall be limited to those matters which were the subject of direct evidence by an opposite party and no new evidence may be offered without permission of the Chairman.
12. The Chairman will offer the applicant, assessor or their representatives an opportunity to provide a summation if such is requested.

**SEC. 4-413 Record**

The record of each proceeding shall consist of the application and all exhibits attached to it, all other written evidence introduced by the applicant, assessor, interested parties and others, the recording or stenographic record of the testimony presented and of the Board's deliberation, the briefs filed by the applicant, assessor, interested parties and others, the minutes of the meetings, and the Board's written decision.

To be included in the record those items must be filed with the Board at the time of the meeting or with the application at the time of filing the application.

Persons present at the Board meetings may make written, taped or filmed records of the proceedings but such records shall not constitute part of the Board's record.

The Chairman shall have the right to regulate the placement and use of tape recorders and cameras as necessary to allow for the orderly conduct of the meeting.

**SEC. 4-414 Decision**

The Board of Assessment review shall make a written decision for its final action on each application and shall set forth in the decision the reason(s) for its decision. Such decision will be made in conformance with appropriate state laws.

The Chairman may assign the responsibility for preparing the written decision to another member, or legal counsel to the Board.

**SEC. 4-415 Appeal**

The applicant may appeal the Board's decision within sixty (60) days to the State Board of Property Review if the property which is the subject of the appeal is nonresidential property and has an equalized municipal valuation of one million dollars (\$1,000,000) or greater. All other parties must appeal directly to Superior Court within thirty (30) days in accordance with Rule 80B.

## **Article 5 Planning Board**

### **SEC. 4-501 Establishment of the Planning Board**

1. The Bucksport Planning Board is hereby established pursuant to 30-A M.R.S.A. Section 3001.

### **SEC. 4-502 Appointment to the Board**

1. The Planning Board shall consist of seven (7) members, each of whom shall be appointed by the Town Council to serve for a five (5) year term commencing on April 1<sup>st</sup>. Terms must be staggered so that at least one (1) appointment for a five (5) year term will be required every year.
2. Appointments are not subject to term limits and members may be reappointed to serve subsequent terms.
3. Members must be sworn into office by the Town Clerk at the beginning of each of their respective terms. A swearing-in ceremony for newly-appointed or reappointed Board members shall be conducted by the Town Clerk at the first available Board meeting before those members may be seated on the Board.

### **SEC. 4-503 Vacancies of the Board**

1. A vacancy of the Board occurs if a Board member resigns, is unable to serve, or is absent for more than three (3) consecutive meetings, unless absent for good cause as determined by majority vote of the Board. The Chairman shall notify the Town Council of any vacancy. The Town Council shall fill any vacancy by appointing a new member for the balance of the term. A vacancy of the Board may not prevent the Board from meeting and conducting business, provided that a quorum is established.
2. An incumbent Board member may continue to serve as a de facto member upon expiration of his term until such time the member is reappointed or another person is appointed and sworn in.

### **SEC. 4-504 Minimum Qualifications to Serve**

1. Any person must meet the following minimum qualifications to serve as a Planning Board member:
  - a. The person must be at least eighteen (18) years old.
  - b. The person must be a United States citizen.
  - c. The person must be a legal resident of Bucksport. Legal residency is demonstrated when the person resides in a dwelling or apartment in Bucksport at least eight (8) months in any calendar year.
  - d. The person may not serve concurrently on the Town Council or Board of Appeals, or as the Bucksport Code Enforcement Officer.
  - e. The person may not be the spouse of a Bucksport Town Councilor, a Bucksport Board of Appeals member or the Bucksport Code Enforcement Officer.

**SEC. 4-505 Authority of the Board**

1. The Board is authorized to review and approve or deny any application pursuant to the requirements of the following ordinances of the Bucksport Town Code:
  - a. Appendix C Subdivision Ordinance
  - b. Appendix D Floodplain Management Ordinance
  - c. Appendix K Land Use Ordinance
2. The Board is authorized to draft or review proposed zoning ordinances and zoning maps and to draft or review proposed amendments to existing zoning ordinances and zoning maps.
3. The Board is authorized to conduct public hearings when required by State law or Town ordinance, or when input from the public is otherwise determined by the Board to be appropriate.
4. The Board is authorized to participate in the preparation of the Town's Comprehensive Plan.
5. The Board is authorized to prepare a submission for the Town's annual report.
6. The Board is authorized to purchase goods and services that are directly related to the general responsibilities of the Board, up to the established limits of appropriations made for such purpose.
7. The Board is not authorized to grant any variance of a dimensional standard unless expressly allowed.

**SEC. 4-506 Conflict of Interest; Bias**

1. A member having a conflict of interest in any matter before the Board shall make full disclosure of that interest before any action is taken on the matter.
2. A Board member has a conflict of interest if the member has a direct or indirect pecuniary interest in the outcome of an application review. A direct or indirect pecuniary interest is deemed to arise if a member is an officer, director, partner, associate, employee or shareholder of a private corporation, business or other economic entity to which the application relates and is also directly or indirectly the owner of at least ten percent (10%) of the stock of the private corporation or owns at least a ten percent (10%) interest in the business or other economic entity.
3. In addition to the provisions of Section 4-506(2), a conflict of interest exists if a member is in a situation whereby his own personal pecuniary interests may be served to the advantage or disadvantage of the interests of the applicant.
4. A member with a bias in any matter before the Board shall make full disclosure of that bias before any action is taken on the matter.
5. A Board member has a bias if for any reason that member is unable to make an impartial decision on an application review.
6. As a matter of procedure, the Chairman of the Board should inquire of the Board whether any conflict-of-interest or bias exists before each application is reviewed, but failure to do so may not invalidate any vote.

7. When a question of an alleged conflict-of-interest or bias of any member is raised, the recusal of that member must be decided by the majority vote of the other Board members present.
8. A member recused by the Board or by his own volition may not participate further as a Board member in the application review. A recused member may not attempt to influence the vote of other members, but may participate as an audience member.
9. A current Board member may not represent any party before the Board, except any member may appear before the Board to represent themselves as an applicant. A current member appearing before the Board as an applicant must be recused prior to the Board's review of their application.
10. A former Board member may represent any party before the Board in accordance with the time limitations set forth in 30-A M.R.S.A. §2605.

**SEC. 4-507 Administration**

1. In December of each year, the Board shall elect by majority vote a Chairman and Secretary to serve for a one (1) year period, commencing at the first meeting of the next calendar year. Vacancies in either office may be filled at any time by the Board.
2. The Board shall establish procedural rules for meetings and public hearings that are consistent with the requirements of this Article and State law. The rules and any amendments thereto must be approved by majority vote of the Board, and approved by the Town Council before implementation.
3. In December of each year, the Board shall determine the schedule for regular meetings in the next calendar year. The Board shall hold one (1) regular meeting each month.
4. The Chairman may reschedule or cancel a meeting if there is any reason the board cannot conduct business at the appointed time or place. Public notice of a rescheduled or cancelled meeting must be posted at the entry to the meeting facility. Notice must also be given to any parties with standing and the local news media, as time permits.
5. The Board may hold special meetings as called for by the Chairman or the majority of the Board. No more than four (4) special meetings may be held by the Board in any fiscal year, except additional special meetings may be held when the costs for such meetings are covered. Public notice of special meetings must be made in accordance with the requirements of Section 4-508.
6. The Chairman shall preside at all meetings of the Board. When the Chairman is absent, the Secretary or another chosen by the members present and voting shall serve as proxy for the Chairman. The Chairman shall:
  - a. Establish the agenda for each meeting;
  - b. Regulate the course of the meeting, set the time and place of adjournments;
  - c. Fix the time for the filing of written submissions;
  - d. Rule upon all issues of procedure or evidence; and

- e. Take such other actions that may be necessary for the efficient and orderly conduct of the Board's business.
7. The Secretary shall be responsible for the following duties:
  - a. Provide the Board with a quarterly report on revenue and expenditures;
  - b. Prepare the Board's annual report; and
  - c. Ensure that a permanent record of all proceedings, including minutes, written findings and decisions, and all correspondence of the Board are maintained at the town office.
8. A quorum of the Planning Board is four (4) members. When no quorum is present at a meeting, no business of the Board may be conducted except to vote to adjourn generally or to a specific place and time.
9. An affirmative vote from at least four (4) members is required for the adoption of a motion to find compliance with criteria standards, or the adoption of a motion to approve, approve with conditions or deny an application. The adoption of all other motions before the Board requires an affirmative vote of the majority of those members present and voting, except as may otherwise be required by Section 4-507(14). A tie vote is considered a defeat of a motion.
10. The Board may not conduct any application review without the presence of the applicant or their representative. If the applicant or their representative is not present, the Board shall table review of the application until either party is present.
11. The Board may require legal guidance or third-party consultations in the review of any application. The determination of this requirement must be made by majority vote of the Board. The applicant is responsible for the costs of legal or other third-party consultants, except the Town Council may grant a waiver of all legal fees or a portion thereof upon written request. Consideration of a waiver of fees must be based on the showing of an undue financial hardship or other extenuating circumstances experienced by the applicant.
12. The applicant must submit a deposit to the town in an amount based on an estimate of the costs for the consultant or legal services the applicant is obligated to pay. The deposit must be received by the town before the services are requested. Subsequent deposits may be required if necessary, and the Board may table the application review until such deposits have been submitted. Payment of any final amount due must be made upon demand by the town. Any deposited funds remaining upon payment of all consultant and legal fees and any other fees related to the application review must be refunded to the applicant.
13. A recording secretary appointed by the Town Council shall record the minutes of each meeting and prepare written minutes to the satisfaction of the Board. In the recording secretary's absence, the minutes shall be recorded and prepared as determined by majority vote of the Board. Copies of all approved minutes and final decisions of the Board shall be provided to the Town Council.
14. The business of the Planning Board is a public proceeding and the Board shall



comply with the provisions of Title 1 M.R.S.A. §§ 401 to 410. All of its proceedings are open to the public and its records are open for inspection, except as otherwise provided by law. The Board may only conduct an executive session in accordance with the requirements of Title 1 M.R.S.A. §405. A motion to enter an executive session must receive a three-fifths ( $\frac{3}{5}$ ) public, recorded vote of the members present and voting and the motion must specify the subject matter and cite the applicable statute. No official action may be approved during an executive session.

15. The Board may meet annually with the Town Council for the purpose of reporting on Board activity and addressing items of interest related to planning and land use.
16. The Chairman shall serve as spokesperson for the Board at any public proceeding for which the Board has accepted an invitation to participate or when the Board has otherwise determined their participation in the proceeding to be appropriate or necessary. If the Chairman is unable to serve as spokesperson, the Board shall select a proxy by majority vote.
17. The Chairman may form committees for the purpose of conducting workshops on topics of interest for the Board. Committee members must include at least two (2) Board members and may also include other Town officials and citizens of Bucksport. The committee shall report to the Board upon conclusion of any workshop. Notice of any committee meeting must be posted at the town office and on the town's website at least seven (7) days prior to the meeting.

#### **SEC. 4-508 Public Notice**

1. Written notice of all Board meetings must be posted at the town office and at the town's website at least seven (7) days prior to each meeting. The notice must set forth the location, date, time and purpose of the meeting. Written notice in print or in an electronic format must be provided to the local news media, the Town Manager, the Town Council, Town Department Directors, the Code Enforcement Officer and any party identified on a meeting agenda.
2. Written notice of Board meetings must be given to any party who has requested recognition as a party with standing in accordance with Section 4-509(b, c or d) and been granted such recognition by the Board. Notice to these parties must be provided in an electronic format, such as an e-mail transmittal or a website posting, except as otherwise required by the Board. Notice is only required to be given to a representative of any group or organization recognized as a party with standing.
3. Written notice of any public hearing required by State law or Town ordinance must be given in accordance with the requirements of the applicable ordinance or law. Notice of any other public hearing required by the Board must be published in a local newspaper and posted at the town office at least seven (7), but not more than twenty-one (21) days prior to such hearing. The notice must set forth the purpose of the hearing, and the date, time and place.

**SEC. 4-509 Parties with Standing**

1. The following parties shall have standing before the Planning Board:
  - a. A permit applicant or permittee.
  - b. Any owner of property that is within 100 feet of the boundaries of a property on which a proposed land use activity is subject to Planning Board approval.
  - c. Any party demonstrating that they will suffer a direct and personal detrimental effect in the actual use or enjoyment of their property from a proposed land use subject to review by the Board.
  - d. Any group or organization demonstrating that a proposed land use subject to review by the Board involves an interest that is germane to the organization's purposes and that any one of its members has standing in their own right.
  - e. Any state or federal agency, office or department, with review or permitting authority for a proposed land use subject to review by the Board.
  - f. The Bucksport Town Council.
  - g. The Bucksport Code Enforcement Officer.

**SEC. 4-510 Remuneration**

1. The Town shall pay each Board member and the recording secretary for their attendance at regular and special Board meetings, including site visits. Payments will be made on a quarterly basis at the following rates:
  - a. Chairman- \$25.00 per meeting/site visit.
  - b. All other members- \$20.00 per meeting/site visit.
  - c. Recording Secretary- \$40.00 per meeting/site visit
2. Remuneration may not be given for attendance at committee meetings, seminars, training workshops or any non-Board public proceeding, except payment of registration fees and mileage reimbursement within the limits of the Board's budget may be made for seminars or training workshops related to the functions of a planning board.

**SEC. 4-511 Enforcement**

The enforcement of this chapter shall be the duty of the Town Council acting through its town attorney pursuant to 30-A M.R.S.A. Section 4452 (as amended).

## **Article 6 Board of Appeals**

**SEC. 4-601 Board of Appeals Established**

1. The Bucksport Board of Appeals is established pursuant to 30-A M.R.S.A. Section 2691.

**SEC. 4-602 Appointment to the Board**

1. The Board of Appeals shall consist of five (5) members, each of whom shall be appointed by the Town Council to serve for a five (5) year term

commencing on April 1<sup>st</sup>. Terms shall be staggered so that one (1) appointment for a five (5) year term will be required every year. Appointments are not subject to term limits and members may be reappointed to serve subsequent terms. Members shall be sworn into office by the Town Clerk at the beginning of each of their respective terms.

**SEC. 4-603 Vacancies of the Board**

1. A vacancy shall occur if a Board member resigns, is unable to serve, or is absent for more than two (2) consecutive meetings, unless absent for good cause as determined by majority vote of the Board. The Chairman shall notify the Town Council of any vacancy. The Town Council shall fill any vacancy by appointing a new member for the balance of the term.
2. An incumbent Board member may continue to serve as a de facto member upon expiration of his term until such time the member is reappointed or another person is appointed and sworn in.

**SEC. 4-604 Minimum Qualifications to Serve**

1. Any person must meet the following minimum qualifications to serve as a Board of Appeals member:
  - a. The person must be at least eighteen (18) years old.
  - b. The person must be a United States citizen.
  - c. The person must be a legal resident of Bucksport. Legal residency is demonstrated when the person resides in a dwelling or apartment in Bucksport at least eight (8) months in any calendar year.
  - d. The person may not serve concurrently on the Town Council or Planning Board, or as the Bucksport Code Enforcement Officer.
  - e. The person may not be the spouse of a Bucksport Town Councilor, a Bucksport Planning Board member or the Bucksport Code Enforcement Officer.

**SEC. 4-605 Conflict of Interest; Bias**

1. **Conflict of interest.** A member having a conflict of interest in any matter before the Board shall make full disclosure of that interest before any action is taken on the matter.
2. A Board member shall have a conflict of interest if the member has a direct or indirect pecuniary interest in the outcome of an appeal. A direct or indirect pecuniary interest is deemed to arise if a member is an officer, director, partner, associate, employee or shareholder of a private corporation, business or other economic entity to which the matter relates and is also directly or indirectly the owner of at least ten percent (10%) of the stock of the private corporation or owns at least a ten percent (10%) interest in the business or other economic entity.
3. In addition to the provisions of subsection 2, a conflict of interest is deemed to exist if a member is in a situation whereby his own personal pecuniary

interests may be served to the prejudice of the interests of the appellant or other parties to the appeal.

4. **Bias.** A member with a bias in any matter before the Board shall make full disclosure of that bias before any action is taken on the matter.
5. A bias is deemed to exist if for any reason a Board member is unable to make an impartial decision on an appeal application.
6. As a matter of procedure, the Chairman of the Board should inquire of the Board whether any conflict-of-interest or bias exists before each matter is presented, but failure to do so may not invalidate any vote.
7. When a question of an alleged conflict-of-interest or bias of any member is raised, the recusal of that member shall be decided by the majority vote of the other Board members present.
8. A member recused by the Board or by his own volition may not participate further as a Board member in the proceedings on the matter at issue. A recused member may not attempt to influence the vote of other members, but may participate as an audience member.
9. A current Board member may not represent any party before the Board, except any member may appear before the Board to represent themselves as an appellant. A current member appearing before the Board as an appellant is deemed to be recused during the Board's review of their application.
10. A former Board member may represent any party before the Board in accordance with the time limitations set forth in 30-A M.R.S.A. §2605.

#### **SEC. 4-606 Administration**

1. The Board shall elect by majority vote a chairman and secretary to serve for a one (1) year period or until their successors are chosen. Vacancies in either office may be filled at any time by the Board.
2. The Board may draft procedural rules and submit them to the Town Council for approval. The rules must be consistent with the requirements of this article and state law.
3. Meetings shall be called by the chairman whenever there is business to conduct. Special meetings may be called by the chairman or by a majority of the members of the Board. At least one (1) public hearing shall be conducted for any administrative or variance appeal. The public hearing must be conducted within thirty-five (35) days of the date of receipt of the application at the town office.
4. The chairman of the Board of Appeals shall preside at all meetings and public hearings. When the chairman is absent, the secretary or another chosen by the members present and voting shall serve as proxy. The chairman shall:
  - a. Establish the agenda for each meeting;
  - b. Regulate the course of the meeting, set the time and place of adjournments, and fix the time for the filing of written submissions;
  - c. Rule upon all issues of procedure or evidence; and
  - d. Take such other actions that may be necessary for the efficient and orderly conduct of the Board's business.

5. A quorum of the Board of Appeals is three (3) members. When no quorum is present at a meeting, no business of the Board may be conducted except to vote to adjourn generally or to a specific place and time. An affirmative vote from at least three (3) members shall be required before any motion before the board may be adopted.
6. The Board may conduct any meeting or public hearing without the presence of the appellant or their representative. The Board may request the appellant to attend a meeting or to respond in writing to any questions that arise during their review of an application.
7. The Board may require legal guidance or third-party consultations in the review of any appeal application. The determination of this requirement shall be made by majority vote of the Board. The responsibility for costs of legal or other third-party consultants shall be determined in accordance with the requirements of Section 4-610, subsection 2.
8. The secretary of the Board shall maintain a permanent record of all proceedings, including minutes, written findings and decisions, and all correspondence of the Board. All records of the Board shall be kept at the town office. Copies of all minutes and decisions of the Board shall be provided to the Town Council.
9. The business of the Board of Appeals is a public proceeding and the Board shall comply with the provisions of Title 1 M.R.S.A. §§ 401 to 410. Except as provided by law, all of its proceedings shall be open to the public and its records open to public inspection. The Board may only conduct an executive session in accordance with the requirements of Title 1 M.R.S.A. §405. A motion to enter an executive session must receive a three-fifths ( $\frac{3}{5}$ ) public, recorded vote of the members present and voting and the motion must specify the subject matter and cite the applicable statute. No official action may be approved during an executive session.
10. The board shall reach a decision within thirty-five (35) days after concluding their review of an appeal application. Within seven (7) days of the decision, the Board shall prepare a written account of their decision, which shall include a statement of findings and conclusions based upon all testimony and records reviewed. The written decision shall include the basis for the conclusion and an appropriate order, relief or denial of relief. The written decision shall be provided to the appellant, Town Council, Planning Board, Code Enforcement Officer and all other parties to the proceedings, including the Department of Environmental Protection when the Board's decision involves an appeal related to shoreland zoning regulations.

#### **SEC. 4-607 Public Notice**

1. Notice of all Board of Appeals meetings must be posted at the town office and a copy of the notice provided to the local news media, the Town Council, the Planning Board, the Code Enforcement Officer, the appellant and all other parties to the appeal. Notice must also be provided to the public drinking water supplier if the appeal involves a source water protection area, and the

Maine Department of Environmental Protection if the appeal involves a shoreland zoning regulation. The notice must set forth the location, date, time and the purpose of the meeting.

2. Notice of any public hearing must be published in a local newspaper and posted at the town office and the public safety building lobby at least seven (7), but not more than twenty-one (21) days prior to such hearing. The notice must set forth the purpose of the hearing, the applicant's name, and the date, time and place of the hearing.
3. Notice of any public hearing pertaining to a variance appeal shall be sent by First Class U.S. Mail to all owners of property that abut the property subject to the variance appeal. Notice must be sent no later than ten (10) days before the public hearing.
4. Notice of any variance appeal involving a shoreland dimensional standard shall be sent by Certified First Class U.S. Mail to the Commissioner of the Maine Department of Environmental Protection no later than twenty (20) days before the public hearing.

#### **SEC. 4-608 Authority of the Board**

1. The Board is authorized to hear and rule on administrative appeals of any decision, determination, action, or non-action pertaining to the granting, denial, suspension, or revocation of any license, permit, waiver or other approval rendered by the Town Council, Planning Board or Code Enforcement Officer pursuant to the requirements of the following ordinances of the Bucksport Town Code:
  - a. Chapter 6 Business Licensing and Regulation, Section 6-202 (Special Amusement)
  - b. Appendix D Floodplain Management Ordinance
  - c. Appendix E Shoreland Zoning Ordinance
  - d. Appendix H Sign Ordinance
  - e. Appendix K Land Use and Site Plan Ordinance
2. The Board is authorized to hear and rule on administrative appeals pertaining to the determination of zoning district boundary lines.
3. The Board is authorized to hear and rule on variance appeals pertaining to any ordinance identified in subsection 1.
4. The Board is not authorized to hear or rule on appeals of any enforcement action or enforcement non-action of the Code Enforcement Officer or the Town Council.
5. The Board is not authorized to extend the deadline for the filing of any appeal application and fee, as identified in Section 4-610.

#### **SEC. 4-609 Parties with Standing**

1. The following parties shall have standing before the Board of Appeals:
  - a. A permittee or licensee, or a permit or license applicant, for an appeal pertaining to their permit or license.
  - b. Any party demonstrating that they are or will be suffering a direct and

personal detrimental effect in the actual use or enjoyment of their property, or suffering any other hardship, due to a determination, decision, action, or non-action of the Town Council, Planning Board or Code Enforcement Officer.

- c. Any group or organization demonstrating that a determination, decision, action, or non-action of the Town Council, Planning Board or Code Enforcement Officer involves an interest that is germane to the organization's purposes and that any one of its members has standing in their own right.
- d. Any state or federal agency, office or department, for an appeal of a determination, decision, action, or non-action of the Planning Board or Code Enforcement Officer, provided that the state or federal agency, office or department directly participated in the proceedings which are the subject of the appeal.
- e. The Bucksport Town Council, pertaining to any appeal before the Board.
- f. The Bucksport Planning Board, pertaining to any appeal before the Board.
- g. The Bucksport Code Enforcement Officer, pertaining to any appeal before the Board.
- h. Any party appealing for a variance who has complied with the requirements of Section 4-610(3).
- i. Any party seeking a determination of the location of a zoning district boundary line.

#### **SEC. 4-610 Application & Fee Requirements**

- 1. Any party seeking an appeal shall submit a completed application to the Town Clerk on forms provided by the town.
- 2. Any party seeking an appeal shall be responsible for all consultant and legal fees incurred by the Board which are directly related to the review and evaluation of the application. Upon written request from the appellant, the Town Council may grant a waiver of all consultant and legal fees or a portion thereof. Consideration of a waiver of fees shall be based on the showing of an undue financial hardship or other extenuating circumstances experienced by the appellant.
- 2.1 Except when fees have been waived by the Town Council, before any consultant or legal services may be provided to the Board, the appellant must submit a deposit to the town in an amount based on estimated costs for the services. Subsequent deposits may be required if necessary, and the Board may table the application review until such deposits have been submitted. Payment of any final amount due must be made upon demand by the town. Any deposited funds remaining upon payment of all consultant and legal fees shall be refunded to the appellant.
- 3. Any party appealing for a variance must provide evidence of right, title or interest to the property subject to the variance, unless such evidence has been documented in the public record forwarded to the Board. A tenant or lessee

seeking a variance must provide written authorization from the property owner to submit an appeal application.

4. The Board of Appeals may not hear and rule on any appeal unless the required application is submitted within the timeframe stated in the ordinance relevant to the appeal or, when no timeframe is stated, within sixty (60) days of the date of the determination, decision, action, or non-action which is the subject of the appeal. The submission of a variance appeal application is not subject to these time limits unless the Planning Board or Code Enforcement Officer has determined during an application review that a variance is required before a decision on an application can be made.

#### **SEC. 4-611 Administrative Appeals**

1. The Board shall conduct an appellate review of any administrative appeal application. In conducting the review, the Board shall examine the public record relevant to the appeal and shall also accept any oral testimony or written documentation from the appellant and other parties to the appeal that is relevant to the Board's examination of the record.
2. The public record subject to examination by the Board shall consist of any recordings, transcripts, minutes, letters, applications, application review documents and any other documents in possession of the town which are relevant to the subject of the appeal and which are not considered confidential by statute. The Board may also consider evidence related to the appeal that is not part of the public record if it is determined that such evidence is required for a full and true disclosure of facts. The chairman shall rule on the exclusion of irrelevant, immaterial or unduly repetitious evidence.
3. The decision of the Board on an administrative appeal shall be based on their findings of the adequacy of the public record preserved by the town to support the decision, determination, action, or non-action being appealed. If the Board finds the record to be adequate, the appeal shall be denied. If the Board finds the record to be inadequate, the appeal shall be granted and the matter shall be remanded to the appropriate authority for actions consistent with the Board's decision.

#### **SEC. 4-612 Variance Appeals**

1. The Board shall conduct a de novo review of any variance appeal application. In conducting their review, the Board shall examine the public record relevant to the appeal and shall also accept any other relevant oral testimony or written documentation from the appellant and other parties to the appeal.
2. The Board may conduct a site visit or other fact-finding investigation that may be necessary to assist them in establishing the record of their review of an application.
3. The decision of the Board on a variance appeal shall be based on the record established by the Board. The Board shall limit granted variances as strictly as possible in order to ensure conformance with the purposes and provisions of



the relevant ordinance to the greatest extent possible and, in doing so, may impose conditions on the variance as it deems necessary.

4. The appellant shall have the burden of proof.
5. The following types of variances may be granted by the Board of Appeals:

- 5.1 **Undue Hardship Variance.** Except as provided in subsections 5.2, 5.3 and 5.4, the Board may grant a variance only when strict application of the ordinance to the appellant and the appellant's property would cause undue hardship. The term "undue hardship" as used in this subsection means:
  - a. The land in question can not yield a reasonable return unless a variance is granted;
  - b. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
  - c. The granting of a variance will not alter the essential character of the locality; and
  - d. The hardship is not the result of action taken by the appellant or a prior owner.

The Board may not grant an undue hardship variance allowing the establishment of any use that is prohibited in the zoning district governing the property subject to the appeal. In addition, the Board may not grant an undue hardship variance for a proposed land use or structure unless the Board finds that all applicable land use standards will be met, except any standard from which relief is sought.

- 5.2 **Disability Variance.** The Board may grant a variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under Title 5, M.R.S.A. § 4553 and the term "structures necessary for access to or egress from the dwelling" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

- 5.3. **Single-family Dwelling Setback Variance.** The Board may grant a set-back variance for a single-family dwelling. A variance from a set-back requirement may only be granted when strict application of the zoning ordinance to the appellant and the appellant's property would cause undue hardship. The term "undue hardship" as used in this subsection means:
  - a. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

- b. The granting of a variance will not alter the essential character of the locality;
- c. The hardship is not the result of action taken by the appellant or a prior owner;
- d. The granting of the variance will not substantially reduce or impair the use of abutting property; and
- e. That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

A single-family dwelling set-back variance may only be granted for a single-family dwelling that is the primary year-round residence of the appellant. A variance under this subsection may not exceed twenty percent (20%) of a set-back requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage. A variance exceeding twenty percent (20%) of a set-back requirement may be granted if the appellant has obtained the written consent of affected abutting landowners, except a variance exceeding twenty percent (20%) of minimum setbacks from a wetland or water body required within any shoreland district may not be granted.

**5.4. Dimensional Standards Variance.** The Board may grant a variance from the dimensional standards of a zoning ordinance when strict application of the ordinance to the appellant and the appellant's property would cause a practical difficulty and when the following conditions exist:

- a. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
- b. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- c. The practical difficulty is not the result of action taken by the appellant or a prior owner;
- d. No other feasible alternative to a variance is available to the appellant;
- e. The granting of a variance will not unreasonably adversely affect the natural environment; and
- f. The property is not located in whole or in part within a shoreland district.

As used in this subsection, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements, and "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the appellant to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the appellant.

- 6. **Variance recorded.** If the Board of Appeals grants a variance, a certificate shall be prepared in recordable form. The certificate shall identify the name of the current property owner, the property by reference to the last recorded deed

in its chain of title, the variance that has been granted including conditions, if any, and the date of the granting. This certificate must be recorded in the local registry of deeds within 90 days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection. For the purpose of this subsection, the date of the final written approval shall be the date stated on the written approval.

**SEC. 4-613 Reconsideration**

1. The Board may reconsider any decision within thirty (30) days of the date of the decision. A request to reconsider may be made by any Board member or any party with standing in the original proceedings. The request must be submitted in writing to the Town Clerk within fifteen (15) days of the date of the decision.
2. Notice of a meeting at which a request to reconsider will be introduced must be given to all parties with standing in the original proceedings.
3. Reconsideration may only occur if the Board finds, by majority vote, that there is reasonable cause to examine the Board's prior decision.
4. A vote to reconsider and the action taken on that reconsideration must occur and be completed within thirty (30) days of the vote on the original decision.
5. The Board may not consider another appeal application on an appeal that was denied, unless the appellant can show a substantial change in the circumstances which provided the basis for the first appeal.

**SEC. 4-614 Appeal**

1. Any party may take an appeal to Superior Court within forty-five (45) days of the date of the original decision of the Board, in accordance with the Maine Rules of Civil Procedure, Rule 80B.
2. Any party may take an appeal to Superior Court within fifteen (15) days of the date of a reconsidered decision of the Board, in accordance with the Maine Rules of Civil Procedure, Rule 80B.

**SEC. 4-615 Enforcement**

1. The enforcement of this chapter shall be the duty of the Town Council acting through its town attorney pursuant to 30-A M.R.S.A. 4452 (as amended).

**Article 7 Office of Code Enforcement**

**SEC. 4-701 Office of Code Enforcement Established**

The Bucksport Office of Code Enforcement is established pursuant to 30-A M.R.S.A. Section 2601-A. The Town Council shall appoint a Code Enforcement Officer (CEO) trained and certified in accordance with 30-A M.R.S.A. Section 4451, and who shall be sworn to perform the duties of the office as set forth in this Article.

**SEC. 4-702 Areas of Responsibility**

1. The Code Enforcement Officer shall serve in any of the following capacities, as designated by the Town Council:
  - A. Shoreland Zoning Officer, under 38 M.R.S.A., chapter 3, subchapter I, article 2-B;
  - B. Land Use Officer, under 30-A M.R.S.A., Part 2, subpart VI-A;
  - C. Plumbing Inspector (LPI), under 30-A M.R.S.A., chapter 185, subchapter III;
  - D. Building Inspector, under 25 M.R.S.A., chapters 313 and 331, 30-A M.R.S.A., chapter 141, and chapter 185, subchapter I;
  - E. Addressing Officer, under 25 M.R.S.A., chapter 352;
  - F. and other duties as may be designated by written authority from the Town Council.

**SEC. 4-703 General Duties of the Office**

1. Duties of the Code Enforcement Office are performed under the general supervision of the Town Manager and include the following:
  - A. Maintain all records in the Code Enforcement Office
  - B. Provide assistance to the public
  - C. Issue permits
  - D. Perform required inspections
  - E. Investigate land use complaints and violations
  - F. Issue violation notices as necessary
  - G. Prosecute violations under Rule 80K as necessary
  - H. Complete all reports as required
  - I. Document all official actions and determinations
  - J. Maintain an accurate record of work hours, vehicle mileage and office expenses
  - K. Maintain required CEO certification
  - L. Provide administrative support to Planning Board and Board of Appeals
  - M. Assist Ordinance Committee in preparation of ordinance amendments
  - N. Maintain the E9-1-1 addressing database and related official records
  - O. Report all addressing information to the ESCB
  - P. Complete other tasks related to the CEO office

**SEC. 4-704 Qualifications for Office**

1. An individual serving as Code Enforcement Officer must meet the following minimum requirements:
  - A. Be at least 18 years of age,
  - B. Be a full-time resident of the State of Maine,
  - C. Be a U.S. citizen,
  - D. Possess a valid State of Maine driver's license,
  - E. Be certified in accordance with 30-A M.R.S.A. §4451,

- F. Have the physical ability to carry out the inspection and administrative duties of the office,
- G. Be sworn to perform the duties of the office by the Town Clerk at the beginning of each term of appointment,

**SEC. 4-705 Conflict of Interest**

- 1. The Code Enforcement Officer may not conduct inspections or act in any other official capacity in regard to work in which he or she has a direct or indirect pecuniary interest or a conflict of interest.
- 2. The Code Enforcement Officer shall notify the Town Council of any type of conflict of interest in the performance of the duties of the office. When appropriate, the Town Council may appoint a deputy CEO on a temporary basis to carry out those specific duties involving the conflict of interest.

**SEC. 4-706 Appointment**

- 1. The Code Enforcement Officer shall be appointed by the Town Council to serve a term which shall be no less than one year, except for temporary appointments of a deputy CEO which may be for a shorter duration. The Town Council shall notify all appropriate State agencies of each appointment.
- 2. Upon each appointment, the Code Enforcement Officer shall be sworn to perform the duties of the office by the Town Clerk.
- 3. Initial appointments, other than that of a deputy CEO, shall be subject to a six month probationary period, at the end of which the Town Council may remove the CEO from office without notice or hearing. A deputy CEO may be removed from office at any time during the appointment period without notice or hearing.
- 4. The Code Enforcement Officer may be removed from office by the Town Council prior to expiration of the appointment. Except as specified in paragraph 3 above, a decision to remove the CEO may only be made after written notice has been given to the CEO, and an opportunity for a hearing. The written notice shall contain the justification for removal of the CEO.
- 5. The Code Enforcement Officer shall receive written notice of all proceedings related to the CEO's reappointment, have the right to attend all such proceedings, and reserve the right to receive a hearing, in accordance with 1 M.R.S.A. §401 et seq. A decision to not reappoint must be based on poor job performance or other just cause and the CEO shall be provided with a written decision.

**SEC. 4-707 Enforcement**

- 1. The Code Enforcement Officer shall enforce the provisions of all ordinances in which the enforcement authority of the CEO has been established or, when not so established, enforcement authority may be designated by the Town Council. Enforcement actions shall be taken in accordance with the procedures stated within each ordinance.

2. When enforcement procedures are not stated within an ordinance, the following procedure shall apply:
  - A. A written notice of violation shall be delivered by certified mail and regular mail to the violator and property owner, if different. In hand service of the notice may be required if mail delivery is not accepted.
  - B. The notice of violation shall contain a description of the violation and a correction order. The correction order shall require compliance in no more than 30 days from the date of the notice. The notice shall also include names and addresses of the violator and owner, a description of the property, and appeal information.
  - C. When compliance is not attained within the stated time period, the CEO may, when specifically authorized by the Town Council, prosecute the violation in accordance with Rule 80K of the Maine Rules of Civil Procedure or, when appropriate, initiate a Consent Agreement with the violator.
3. The enforcement of this Article shall be the duty of the Town Council or its designated authority pursuant to 30-A M.R.S.A. §4452.

*Chapter 4 Boards, Commissions, and Special Offices was adopted in conjunction with the Town Code on March 9, 1978, and was repealed and replaced in its entirety on June 9, 1997 and amended to add Article 7, September 28, 2000.*

*Amended 2-14-02 section 4-207*

*Amended 3-17-05 sections 4-414, 4-415*

*Amended 5-11-06 section 4-503(2) to clarify that 4 affirmative votes are required for all motions.*

*Amended 8-10-06 section 4-302*

*Amended 2-14-08, section 4-508*

*Amended 8-14-08. Article 6 Board of Appeals was replaced in its entirety.*

*Amended 4-8-10. Article 5 Planning Board was replaced in its entirety.*

***Town Clerk's note:*** *The amendment to Section 4-414, approved on 3-17-05, was belatedly incorporated in Chapter 4 on August 2, 2007.*